

Hamilton Test Systems New York, Inc. and Local 804, Delivery and Warehouse Employees, an affiliate of International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Petitioner. Case 29-RC-5632

December 2, 1982

DECISION ON REVIEW AND DIRECTION

**BY MEMBERS FANNING, JENKINS, AND
ZIMMERMAN**

On May 28, 1982, the Regional Director for Region 29 issued a Supplemental Decision and Direction of Election,¹ in which he found appropriate for the purposes of collective bargaining a unit consisting of all full-time and regular part-time crib attendants, truckdrivers, technicians, field service representatives, and field service supervisors, employed by the Employer at its facility located at 360 Oser Avenue in Hauppauge, New York, excluding all other employees, office clerical employees, bookkeepers, secretaries, accountants, guards and supervisors as defined in the Act. Thereafter, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, the Petitioner and the Employer filed timely requests for review of the Regional Director's Supplemental Decision and Direction of Election. The Petitioner contended that the field service representatives and field service supervisors should not be included in the appropriate unit, and the Employer contended that only a multilocation unit covering all of the Employer's facilities in a nine-county area was appropriate.

By telegraphic order dated June 25, 1982, the National Labor Relations Board denied the Employer's request for review but granted the Petitioner's request for review of the Regional Director's decision to include certain classifications in the unit.²

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has reviewed the entire record in this case and makes the following findings:³

¹ On March 12, 1982, the Regional Director for Region 29 issued a Decision and Direction of Election. However, pursuant to a motion to reopen the record by the Employer, the Regional Director reopened the record and held an additional hearing.

² The election was conducted on June 25, 1982, the field service representatives and the customer service supervisors cast challenged ballots, and all of the ballots were impounded pending the Board's Decision on Review.

³ The facts set forth below are undisputed.

The Employer is engaged in the business of supplying and servicing computerized automobile emission test machines for 4,200 service stations in 9 counties in New York State. It maintains its headquarters in Hauppauge, New York, and district offices in Brooklyn, Yonkers, and Williston Park, New York.

At the Hauppauge facility the Employer employs 3 crib attendants, 10 technicians, and a truckdriver. The truckdriver, who regularly visits the district offices to pick up parts of the emission test machines which are defective, takes the parts to the Hauppauge facility where he gives them to the crib attendants. The crib attendants log in the parts and give them to the technicians, who are responsible for repairing and testing the parts. The repaired parts are then given back to the crib attendants who issue them to the truckdriver for delivery to the district offices.

In addition to these employees, there are 14 field service representatives and 2 customer service supervisors⁴ at the Hauppauge facility. The field service representatives are assigned a route and are responsible for servicing the emission machines on that route. They spend virtually all of their time in the field, reporting to the Hauppauge facility only about once a week for a few hours to do some paperwork, obtain supplies, and turn in any defective parts they could not repair. The customer service supervisors, who act as dispatchers, receive telephone calls from customers whose machines need servicing, and then notify the field service representative assigned to that customer that servicing is required. In addition, the customer service supervisors contact the crib attendants if a problem arises relating to the shipment of parts.

The crib attendants work in a caged-in area separate but adjacent to the area where the technicians work. The customer service supervisors have an enclosed office, and spend most of their time in that office or in the small parts crib, a wired-off area separated from the main parts crib where the crib attendants work. There is one supervisor over the technicians and one supervisor over the crib attendants and truckdriver, and both of these supervisors report to the manager of material control and technical services. The customer service supervisors and the field service representatives are supervised by the district manager. In the recent past, three to four field service representatives have been promoted to customer service supervisor.

Both the field service representatives and the technicians are required to have some electronics

⁴ It is undisputed that the customer service supervisors are not supervisors within the meaning of the Act.

background although field service representatives also generally are expected to have some prior experience in an automobile service station, dealership, or garage. Initial training for both newly hired technicians and field service representatives is conducted jointly, but subsequent training is conducted separately.

All employees at the Hauppauge facility work similar hours and receive similar wages and benefits, but the field service representatives alone receive a company car for which the Employer pays the cost of upkeep, insurance, and gasoline. The field service representatives may also use the cars for personal business by reimbursing the Employer at a rate of 10 cents per mile.

The Regional Director concluded that, based on the similarity in hours, wages, fringe benefits, and skills, and the frequent contact between employees, the field service representatives and customer service supervisors possess a sufficient community of interest to warrant their inclusion in the unit of technicians, crib attendants, and truckdrivers sought by Petitioner and therefore included them in the unit. However, for the reasons set forth below, we find that the Regional Director erroneously rejected the unit sought by the Petitioner in favor of the larger unit.

It is well settled that more than one unit may be appropriate among the employees of an employer. *Chin Industries, Inc.*, 232 NLRB 176 (1977). Thus, the issue is not whether the unit found by the Regional Director is appropriate, but whether the unit sought by the Petitioner is also appropriate.

A number of factors support the conclusion that the crib attendants, technicians, and truckdriver alone constitute an appropriate unit. The crib attendants and the technicians work side by side, and their job functions keep them in constant contact with each other as well as the truckdriver. The crib attendants and the truckdriver are supervised by the same individual, and, although the technicians are separately supervised, both of these supervisors report to the same management official. In addition, these employees have similar wages, benefits, hours, and working conditions.

In contrast, the field service representatives spend only 3 hours per week at the Employer's facility, and the customer service supervisors are lo-

cated in an enclosed office separate from the other employees. In addition, the field service representatives and the customer service supervisors are separately supervised, have no interchange with the other employees, and have a separate promotional ladder. Moreover, the customer service supervisors receive significantly higher wages than other employees, and the field service representatives alone receive the benefit of a company car. Further, there are different job qualifications for field service representatives than for technicians, and the field service representatives service whole machines rather than repair individual parts, thereby making it necessary for them to receive separate training from the technicians after the initial training session.

Thus, based on the similarities between the crib attendants, technicians, and truckdriver and their dissimilarities with the field service representatives and the customer service supervisors, we find, contrary to the Regional Director, that the following employees constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time crib attendants, truckdrivers, and technicians employed by the Employer at its facility located at 360 Oser Avenue, in Hauppauge, New York, excluding all other employees, office clerical employees, bookkeepers, secretaries, accountants, guards and supervisors as defined in the Act.

Accordingly, we shall remand the case to the Regional Director for Region 29 for the purpose of counting the impounded ballots in the appropriate unit.

DIRECTION

It is hereby directed that the Regional Director for Region 29 shall, within 10 days from the date of this Decision on Review and Direction, open and count the impounded ballots in the appropriate unit, and prepare and serve on the parties a tally of ballots. Thereafter, the Regional Director shall proceed as is appropriate in accordance with our Decision herein.